Prob12B
(7/93)

United States District Court
for the District of Massachusetts

Request for Modifying the Conditions or Term of Supervision with Consent of the Offender

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Raul Baez **Case Number:** 95-10274

Name of Sentencing Judicial Officer: The Honorable Richard G. Stearns, U. S. District Judge

Date of Original Sentence: September 18, 1996

Original Offense: Conspiracy to Distribute Cocaine Base; Possession of Cocaine Base w/i to Distribute, in violation of 21 U.S.C. §§ 846 and 841(a)(1).

Original Sentence: 120 months imprisonment to be served concurrently with each other, followed by five (5) years of Supervised Release

Type of Supervision: Supervised Release **Date Supervision Commenced:** 10/17/03

Asst. U.S. Attorney: George W. Vien **Defense Attorney:** Ralph F. Champa

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PETITIONING THE COURT

[ ] To extend the term of supervision for years, for a total term of years
[X] To modify the conditions of supervision as follows:

The defendant shall serve five (5) months in a community confinement center and shall observed the rules of that facility.

CAUSE

I **Violation of Law:** While on supervised release, the defendant shall not commit another Federal, State, or local crime.

3/17/08	Assault & Battery Salem District Court Dkt. #0836CR000780	Pending

Details of the offense are as follows: On March 16, 2008, Salem Police Officers responded to a call of a domestic dispute. Upon arrival the victim, the defendant's stepson, Paul Rodriguez, was interviewed. He stated that the defendant had called him into the laundry room and asked him why his laundry was not done. The defendant began to shout at the victim and allegedly punched him in his left shoulder. Rodriguez stated that he tried to walk away to defuse the situation; however, the defendant followed him. According to Rodriguez, when he let out a loud sigh, the defendant became more angry as he found this disrespectful. When Rodriguez tried to walk away, the defendant tried to stop him by grabbing him by his neck and shoulder area. A pushing match ensued and the defendant allegedly held the victim down and punched him in his chest several time and once in the head. The victim had redness around his neck and some scratches. The victim's mother corroborated his accounts of the event. She noted that she had to separate the two individuals.

The Salem Police Officer interviewed the defendant and he related the same story about the laundry adding that Rodriguez routinely fails to take care of his share of chores in the home. He further stated that it was Rodriguez who turned the confrontation physical, trying to push Baez out of his way to walk away. Baez stated that his stepson was being very disrespectful. He admitted that he grabbed him by his shoulder/neck area to keep him from walking away. He denied punching the victim.

The defendant was arrested and charged as noted above at the Salem District Court, where he was appointed counsel. On March 20, 2008, he was released on $500 cash bail and the next court hearing is scheduled for April 14, 2008.

Response by Probation Office:

On March 19, 2008, the Probation Office filed a Petition for Warrant in which we alleged that the defendant violated his terms of supervision, based on the above noted new criminal charge. The Court ordered that a summons be issued for a Revocation Hearing which has yet to be scheduled. In lieu of a Revocation Hearing, the Probation Office is submitting this Request for Modification of the Conditions of Supervised Release and requests that the Petition for Revocation Proceeding be withdrawn.

A meeting was held in the office with Mr. Baez and he explained the circumstances involved in the above noted incident. He acknowledged that he grabbed his stepson by his shoulder in an effort to get his attention as he kept walking away from him; however, he denied punching or striking him. It should be noted, however, that this contradicts the statement given to the Probation Department by the alleged victim. Mr. Baez agreed to vacate the residence where his wife resides with their young son and the alleged victim.

The Probation Office believes that the recommended sanction requiring the defendant to serve five months in a community corrections center is appropriate in this case. It would allow the defendant the opportunity to maintain his employment and to pursue family counseling prior to his reunification with his family. Mr. Baez has consented to this modification as exhibited by the attached Probation Form 49 (Waiver of Hearing to Modify Conditions).

Reviewed/Approved by:

/s/ John G. Marshall
John G. Marshall
Supervising U.S. Probation Officer

Respectfully submitted,

By /s/ Carmen Pena Wallace
Carmen Pena Wallace
U.S. Probation Officer
Date: 3/28/08

THE COURT ORDERS

[ ] The Revocation Hearing
[✓] The Withdrawal of the Petition for Revocation Hearing and the Modification of Conditions as Noted Above
[ ] Other

Richard G. Stearns
Signature of Judicial Officer

5-2-08.
Date